REMARKS

Applicant thanks the Examiner for taking the time to conduct a telephone interview regarding the issues relevant to the pending office action. The following remarks include the issues that were discussed during the interview.

Claims 1, 5 and 15 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 7 and 18 of copending Application No. 10/047,005. Attached is a terminal disclaimer.

Claims 15 and 20 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended claims 15 and 20 to provide the necessary antecedent basis and therefore requests reconsideration and withdrawal of the rejection of claims 15 and 20.

Claims 15- 28 stand rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The Examiner has found that claims 15-28 are directed to non-statutory subject matter because in order for the claims to be statutory, the computer readable medium has to be defined in the disclosure. (Office Action, p. 4). The Examiner further states that in view of Applicant's disclosure, none of the pages disclose a tangible computer readable medium. *Id.*

Applicant respectfully directs the Examiner to page 9 of the specification wherein Applicant discloses that memory generally includes both volatile memory and non-volatile memory, *e.g.*, ROM, PCMCIA cards and hard disk drives. (Specification, p. 9, lines 15-22). It should be noted, however, that these examples of different types of computer readable medium are just that – non-limiting examples of computer readable medium. These examples are not meant to limit the invention in any way. Any computer readable medium known to those having ordinary skill in the art would be suitable for practicing the claimed invention. For example,

Applicant further discloses the use of a CD-ROM drive so that the computer program product could be embodied on a CD-ROM. (Specification, p.11, line 29).

Therefore, because Applicant has disclosed a tangible computer readable medium in the specification, Applicant respectfully requests reconsideration and withdrawal of the rejection.

Claims 1, 3, 5, 15, 17 and 19 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application No. 2002/0142762 of Chmaytelli, *et al.* Chmaytelli discloses a network-initiated uninstallation of programs on remote modules, such as wireless telephones. (Chmaytelli, Abstract). A network-initiated recall command is broadcast to wireless telephones carrying the targeted application program. (Chmaytelli, ¶ 0038). The recall command instructs the wireless telephone to uninstall the targeted application program. (Chmaytelli, ¶ 0064). The wireless telephone automatically uninstalls the program or alternatively, disables the program or takes any other action that would cause the targeted program to no longer function. (Chmaytelli, ¶ 0080).

Applicant claims methods and computer program products for external control over operation of an electronic device having a wireless receiver that includes, *inter alia,* broadcasting a wireless control message that includes an instruction to limit operation of one or more components within the electronic device and responsive to the instruction, setting one or more electronic gates implemented as hardware in the device that control operation of the one or more components. (Claims 1 and 15).

MPEP § 2131 provides:

> "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California,* 814 F.2d 628, 631 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.,* 868 F.2d 1226, 1236 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, *i.e.,* identity of terminology is not required. *In re Bond,* 910 F.2d 831 (Fed. Cir. 1990).

Furthermore, the Federal Circuit held in *Paperless Accounting, Inc. v. Bay Area Rapid Transit Systems,* 804 F.2d 659 (Fed. Cir. 1986): "[A] § 102(b) reference must sufficiently describe

the claimed invention to have placed the public in possession of it." *Id.* at 665.

Applicant respectfully asserts that a *prima facie* case of anticipation has not been provided because the cited prior art fails to show, in as complete detail as is contained in the claim, Applicant's claimed invention. Specifically, Chmaytelli fails to disclose at least that portion of Applicant's claim that in response to an instruction, setting one or more electronic gates implemented as hardware in the device that control the operation of the one or more components. Indeed, Applicant is unable to find any mention of a gate in the cited prior art reference. Chmaytelli merely teaches uninstalling a program or causing a program not to operate but such is not what Applicant claims.

Applicant specifically claims setting one or more electronic gates implemented as hardware in the device that control operation of the one or more components that are to be limited in their operation. Such is not disclosed by the cited prior art.

Therefore, because the cited prior art fails to show, in as complete detail as is contained in the claim, Applicant's claimed invention, Applicant respectfully requests reconsideration and withdrawal of the rejection of independent claims 1 and 15 as well as all claims depending therefrom.

Claims 1, 3, 5-6, 10-11, 14-15, 17, 19-20, 24-25 and 28 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application No. 2003/0126462 granted to Howard, *et al.* Howard discloses a device that prevents unauthorized use of electronic devices, such as cellular telephones. (Howard, Abstract). Howard discloses sending an "initiate security protocol" message to a wireless device that has been reported as stolen and, for example, registered in a database of stolen devices. (Howard, ¶ 0024). Upon entry into the network, the wireless device automatically registers with a database that determines whether the wireless device is lost, misplaced, stolen, etc. (Howard, ¶ 0028). If the device is determined to be, for example, stolen, then the "initiate security protocol" message is sent to the wireless device from the database. *Id.*

Applicant claims methods and computer program products for external control over operation of an electronic device having a wireless receiver that includes, *inter alia*, broadcasting a wireless control message that includes an instruction to limit operation of one or more components within the electronic device and responsive to the instruction, setting one or more

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electronic gates implemented as hardware in the device that control operation of the one or more components. (Claims 1 and 15). Applicant claims broadcasting a message to an electronic device and/or receiving a message by the electronic device, wherein the message does not identify or specifically address the electronic device. (Claims 6 and 20).

Applicant respectfully asserts that a *prima facie* case of anticipation has not been provided because the cited prior art fails to show, in as complete detail as is contained in the claim, Applicant's claimed invention. Specifically, Howard does not disclose activating electronic gates implemented as hardware to disable the device or particular components of the device. Howard does not disclose sending or receiving a message that is not specifically addressed to the electronic device. Howard discloses that the electronic device must first be identified and then a message is sent to the identified electronic device. Howard does not disclose sending a message to an unidentified electronic device.

Therefore, because the cited prior art fails to show, in as complete detail as is contained in the claim, Applicant's claimed invention, Applicant respectfully requests reconsideration and withdrawal of the rejection of independent claims 1, 6, 15 and 20 as well as all claims depending therefrom.

Claims 2, 4, 7-9, 12 and 13 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant thanks the Examiner for finding this allowable subject matter. However, considering the discussion in the remarks above concerning independent claims 1 and 6, Applicant respectfully requests reconsideration and withdrawal of the objection to these claims that depend, either directly or indirectly, from independent claims 1 and 6.

Applicant respectfully asserts that all claims are now in condition for allowance and request the timely issuance of a Notice of Allowance. If the Examiner believes that a telephone conference would expedite the examination of this application, the Examiner is invited to telephone the below-signed attorney at the convenience of the Examiner. In the event there are additional charges in connection with the filing of this Response, the Commissioner is hereby authorized to charge the Deposit Account No. 50-0714/IBM-0018 of firm of the below-signed

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attorney in the amount of any necessary fee.

Respectfully submitted,

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